

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

VANCE E. KING,)
)
Claimant Below-)
Appellant,) C.A. No. 05A-01-002 MMJ
)
v.)
)
ALLIED SYSTEMS, LTD.,)
)
Employer Below-)
Appellee.)

ORDER

*Upon Appellee Allied Systems, Ltd.'s
Motion for Reargument*

Submitted: February 7, 2006
Decided: May 11, 2006

1. Vance E. King (“Employee”) received worker’s compensation from Allied Systems, Ltd. (“Employer”) due to an injury that occurred in a compensable industrial accident.
2. Employer filed a Petition to Review with the Industrial Accident Board (“IAB”) seeking to terminate Claimant’s entitlement to disability benefits. Employee filed a Request for Production of Documents on August 30, 2005. Specifically, Employee requested production of Employer’s record of payments

made to all treatment providers under the claim (the “Payment Log”). Employer objected to production on the grounds that the document request was not relevant to the pending Petition. Employee subsequently filed a Motion to Compel.

3. The IAB held a hearing on the motion to compel and on October 20, 2005, denied Employee’s request for the Payment Log. The IAB ruled that no known bills were outstanding at that time. The IAB found that employers are not obligated to provide proof of payments unless an issue exists.

4. Employee filed an appeal with the Superior Court, stating that the October 20, 2005 ruling was a final award. Employee argues that under 19 *Del. C.* § 2322, the Payment Log should be available to an employee at any time because it is a medical record. Employer filed a Motion to Dismiss on January 11, 2006, arguing that the October 20, 2005 ruling was an interlocutory order and, therefore, not appealable to the Superior Court. Employer further argues that the Payment Log is not a medical record for purposes of 19 *Del. C.* § 2322. At the conclusion of oral argument on January 26, 2006, this Court, ruling from the bench, required Employer to produce the Payment Log.

5. Employer filed the instant Motion for Reargument, arguing that the Court misapplied the law to the facts in this case, regarding both jurisdiction and application of 19 *Del. C.* § 2322(d).

6. The purpose reargument is to permit reconsideration of findings of fact, conclusions of law, or judgment of law.¹ Reargument usually will be denied unless the moving party demonstrates that the Court overlooked a precedent or legal principle that would have a controlling effect, or that it has misapprehended the law or the facts in a manner affecting the outcome of the decision. “A motion for reargument should not be used merely to rehash the arguments already decided by the court.”²

7. In *Eastburn v. Newark School District*,³ the Delaware Supreme Court held that interlocutory orders of the IAB are not appealable to the Superior Court. Only final “awards” of the Board are appealable. “The word ‘award’ must be read as the final determination of the Board in the case. The word itself requires that connotation; and the urgency of workmen’s compensation cases, as well as the improvement of judicial administration, militates against a ruling permitting fragmentation of such litigation by interim appeals.”⁴

¹*Hessler, Inc. v. Farrell*, 260 A.2d 701, 702 (1969).

²*Wilmington Trust Co. v. Nix*, 2002 WL 356371 (Del. Super.); *Whitsett v. Capital School District*, Del. Super., C.A. No. 97C-04-032, Vaughn, J. (Jan. 28, 1999); *Monsanto Co. v. Aetna Casualty & Surety Co.*, Del. Super., C.A. No. 88-JA-118, Ridgeley, P.J. (Jan. 14, 1994).

³324 A.2d 775 (Del. 1974).

⁴*Id.* at 776.

8. The IAB's denial of the Motion to Compel documents was an interlocutory order. The Payment Log was requested in anticipation of the termination hearing and, therefore, the Motion to Compel was interlocutory.

9. Claimant contends that the Payment Log was not requested in anticipation of the termination hearing. He argues that the Payment Log was requested pursuant to 19 *Del. C.* § 2322(d). Section 2322(d) requires that medical records be produced by an employer to the employee at any time. Claimant asserts that the Payment Log is a medical record for purposes of this statute.

10. Section 2322(d) specifies documents that shall be included in the definition of a medical record. Payment records are not among the specifically enumerated documents. A medical record is a history of the patient's illnesses, a physician's diagnosis, and any treatment. Upon further review, the Court finds that a payment log was not intended to be included as a "medical record" for purposes of permitting an employee's inspection, copying and reproduction pursuant to 19 *Del. C.* § 2322(d). For employees, the purpose of the statute is to prescribe how much medical aid the employee may receive and assure that the employer furnishes proper aid. There is no suggestion that Section 2322(d) was enacted for the purpose of protecting an employee from consequences to

employee's credit rating as a result of the possibility of employer's untimely payments to medical service providers.

11. The legislative intent of Section 2322 is to provide adequate medical aid to employees. There is no evidence at this time of delinquent payments by Employer for medical services. At this time there are no known defaults.

THEREFORE, Employer's Motion for Reargument is hereby **GRANTED**. The January 26, 2006 Order of this Court is hereby **VACATED**. Employer's motion to Dismiss is hereby **GRANTED**. The September 27, 2005 ruling of the Industrial Accident Board is hereby **AFFIRMED**.

The Honorable Mary M. Johnston

oc: Prothonotary